

April 8, 2002

**In the Matter of the On-Sale
Liquor License Class B w/Sunday Sales
Of Katabay Corporation
dba: The Blue Nile
2027 East Franklin Avenue
Minneapolis, MN 55404**

**Findings of Fact,
Conclusions of Law, and
Recommendations**

This matter came before the Minneapolis Licenses and Consumer Services Division (LCS) on April 3, 2002 in a Technical Advisory Committee meeting (TAC) as a result of on-site inspections conducted by Laura Huseby, Minneapolis Environmental Health and Plumbing Inspectors from the Minneapolis Inspections Division. Present at the TAC meeting were the following persons: Fahmi Katabay, Elham Katabay and Sami Osman, on behalf of Katabay Corporation (Licensee); Clara Schmit-Gonzalez, Kenneth Ziegler and Phil Schliesman of the License Division; Curt Fernandez, Laura Huseby and Tim Jenkins of the Environmental Health Division; and Paul Kerr of the Inspections Division on behalf of the City of Minneapolis. Based upon the evidence presented at the TAC meeting, the committee makes the following:

FINDINGS OF FACT

- 1) On February 8, 2002, as a result of an inspection conducted by Brian Kirby, a Minneapolis Plumbing Inspector, the Licensee was ordered to discontinue use of a water heater until it had been installed to code by a licensed plumber with proper permits. A return inspection revealed that the water heater had not been repaired, but was in use. The Licensee's establishment was ordered closed until the water heater was properly installed. This was accomplished on the following day.
- 2) On February 20, 2002, the Licensee was directed to have certain plumbing code violations corrected no later than March 20, 2002 by Minneapolis Plumbing Inspector Paul Kerr. The directive also specified that the corrective work must be performed by a licensed plumbing contractor. As of April 3, 2002, the directive had not been fully complied with and what work had been done had been performed by a person who is not a licensed plumbing contractor.
- 3) Since 1994, the Licensee's establishment has been inspected by Environmental Health at least twice yearly. Each of these inspections has resulted in the issuance of orders for correction of violations, many of them of the "critical" classification.
- 4) On May 30, 1996, the Licensee was the subject of an Environmental Health Division administrative hearing that resulted in the imposition of a requirement that food safety temperature records be kept, that employees be subjected to in-house training relating to proper methods of food preparation and storage, that a

written, in-house policy for cleaning and maintenance be instituted and that a written personal hygiene policy be developed.

- 5) On January 24, 2002 a routine Environmental Health inspection of the Licensee's premise revealed 22 critical violations and 20 non-critical violations of the food and beverage code. As a result, an on-premise conference was held with the Licensee on January 25, 2002 and a letter was sent to the licensee on January 30, 2002 that enumerated a number of corrective actions that were required, including the abatement of all critical violations by February 2, 2002.
- 6) On February 7, 2002 Environmental Health sent the Licensee a letter that reiterated the corrective actions listed in the January 30, 2002 letter. The letter noted complete and partial failure to implement the corrective action and also noted that 6 critical violations noted in the January 24, 2002 inspection still had not been abated.

CONCLUSIONS OF FACT

1. That, on several occasions in the recent past, the Licensee has willfully disobeyed lawful orders issued by Minneapolis Plumbing Inspectors, and has failed to promptly abate those orders in the manner prescribed. Thus, the health and safety of both patrons and employees of the Licensee's business were jeopardized.
2. That, the Licensee has a lengthy history of violations of the Food Code, many of them repetitive and has failed to implement corrective policies as instructed by the Minneapolis Environmental Health Division. Thus, the health of patrons of the Licensee's business was jeopardized.
3. That, the Licensee has failed to fully implement the specific corrective actions that were fully set forth by the Minneapolis Environmental Health Division in letters dated January 30 and February 7, 2002. Thus, a continuing threat to the health of patrons of the Licensee's business continues.

RECOMMENDATIONS

Based upon the recurring nature of the violations enumerated in this Findings, and considering the Licensee's willingness to cooperate and expressed desire to immediately and actively take steps to rectify the violations, the TAC members recommend the following :

- 1) That the Licensee pay a \$4,000.00 administrative fine, \$2,000.00 of which is due upon the signing of this agreement. Imposition of the remaining \$2,000.00

is stayed provided that, for a period of one (1) year from the date of the signing of this Agreement, the License has no more than three (3) critical health related violations found during any one inspection that is performed by the Minneapolis Environmental Health Division.

- 2) That all Environmental Health orders outstanding as of the date of the TAC meeting be remedied within ten (10) days of the date of the signing of this Agreement.
- 3) That the Licensee shall cause two (2) additional employees of the business to register and complete a Food Manager's Certification course within thirty (30) days of the signing of this Agreement.
- 4) That the Licensee shall schedule and ensure that all employees involved in the preparation and service of food attend a Food Handler's class and to promptly pay for same no later than ten (10) days after the signing of this Agreement.
- 5) That the Licensee shall schedule an inspection of the licensed premises by the Minneapolis Fire Prevention Bureau no later than ten (10) days after the date of the signing of this Agreement.
- 6) That the Licensee shall have all HVAC and Plumbing violations written against the business within ten (10) days of the date of the signing of this Agreement and shall have all work performed by contractors licensed by the City of Minneapolis whom have obtained the proper permits to perform the work;
- 7) That the establishment will be inspected a total of four (4) times during the one (1) year period following the date of the signing of this Agreement at a cost to the Licensee of one hundred dollars (\$100.00) per hour, which fee shall be paid in full no later than ten (10) days after the Licensee has been billed for such services;
- 8) An administrative fine of one hundred dollars (\$100.00) shall be levied on the Licensee for any Critical Violation of the Food and Beverage Code found during Environmental Health inspections.

I have read and understood the above report and recommendations. I agree with the above noted recommendations. I understand that these recommendations become effective only upon City Council approval and that such approval may be withheld at the Council's discretion. I also understand that I have a right to appeal these findings and recommendations to the City Council. I also understand, however, that on appeal the City Council is in no way limited by the recommendations herein contained and may impose more severe penalties should it deem them warranted. I further understand that failure on my part or on the part of my business to adhere to this agreement or any of the recommendations contained herein shall be grounds for further suspension, revocation or non-renewal of my license.

**Signature- Fahmi Katabay, President
Katabay Corporation**

Date

Signature- LCS Witness

Date
